



[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection: Comment Request

AGENCY: Federal Trade Commission (“Commission” or “FTC”).

ACTION: Notice; Request for public comment.

SUMMARY: The FTC plans to conduct a consumer study to examine fuel economy advertising. The study is part of the Commission’s regulatory review of the Guide Concerning Fuel Economy Advertising for New Automobiles (“Fuel Economy Guide” or “Guide”). This is the first of two notices required under the Paperwork Reduction Act (“PRA”) in which the FTC seeks public comments on its proposed consumer research before requesting Office of Management and Budget (“OMB”) review of, and clearance for, the collection of information discussed herein.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Fuel Economy Consumer Study, Project No. P134202” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/fueleconomystudypra>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610, (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610, (Annex J),

Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, 202-326-2889,
Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M-
8102B, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission issued the Guide Concerning Fuel Economy Advertising for New Automobiles (“Fuel Economy Guide” or “Guide”) (16 CFR Part 259) in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising. The Guide helps advertisers avoid unfair or deceptive claims under Section 5 of the FTC Act.¹ To accomplish this goal, the Guide advises marketers to disclose established Environmental Protection Agency (EPA) fuel economy estimates (*e.g.*, miles per gallon or “mpg”) whenever they make any fuel economy claim based on those estimates. In addition, if advertisers make fuel economy claims based on non-EPA tests, the Guide directs them to disclose also EPA-derived fuel economy estimates and provide details about the non-EPA tests such as the source of the test, driving conditions, and vehicle configurations.

¹ 15 U.S.C. 45(a). The Commission’s industry guides, such as the Fuel Economy Guide, are administrative interpretations of the application of Section 5 of the FTC Act, 15 U.S.C. 45(a) to advertising claims. The Commission issues industry guides to provide guidance for the public to conform with legal requirements. These guides provide the basis for voluntary abandonment of unlawful practices by industry members. 16 CFR part 17. The Guides do not have the force and effect of law and are not independently enforceable. However, failure to follow industry guides may result in enforcement action under Section 5 of the FTC Act. The Commission, therefore, can take action under the FTC Act if a business makes fuel economy marketing claims inconsistent with the Guides. In any such enforcement action, the Commission must prove that the act or practice at issue is unfair or deceptive.

On April 28, 2009 (74 FR 19148), the Commission published a Notice of Proposed Rulemaking (“NPRM”) soliciting comments on proposed amendments to the Guide. The Commission then postponed its review of the Guide in a June 1, 2011 Notice (76 FR 31467) pending new fuel economy labeling requirements from the EPA and completion of the FTC’s review of its Alternative Fuels Rule (16 CFR Part 309). The Commission explained that issuance of a final Fuel Economy Guide would be premature before the conclusion of these regulatory proceedings. With those proceedings completed,² the Commission now resumes its review of the Fuel Economy Guide.

II. FTC’s Proposed Study

A. Study Description

The FTC plans to conduct Internet-based consumer research to explore consumer perceptions of certain fuel economy claims to enhance the Commission’s knowledge of how consumers understand such claims. Specifically, using a treatment-effect methodology, the proposed study will compare participant responses regarding their understanding of a variety of claim types, such as general fuel economy claims (*e.g.*, “this car gets great gas mileage”), specific MPG claims (*e.g.*, “39 mpg”), and driving range claims. To aid in developing possible changes to the Fuel Economy Guide, FTC staff will consider the consumer research results in conjunction with the broad range of issues raised by commenters during the Guide review.

Having considered the costs and benefits of various data collection methods, FTC staff

² The Commission announced final revisions to the Alternative Fuels Rule in an April 23, 2013 Notice (78 FR 23832). In 2011, EPA completed revisions to its fuel economy labeling requirements, which, among other things, addressed labels for alternative fueled vehicles (AFVs) not specifically addressed in past EPA requirements. *See* 76 FR 39478 (July 6, 2011).

has concluded that an Internet panel with nationwide coverage will provide the most efficient way to collect data to meet the research objectives within a feasible budget. Thus, the FTC proposes to collect responses from U.S. automobile consumers representing a broad spectrum of the U.S. adult population. Participants will be drawn from an Internet panel maintained by a commercial firm that operates the panel. All participation will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they will provide useful insights into consumer understanding of the claims being considered.

B. PRA Burden Analysis

Staff estimates that respondents to the Internet questionnaire will require, on average, approximately 20 minutes to complete it. Staff will pretest the questionnaire with approximately 100 respondents to ensure that all questions are easily understood. Allowing for an extra three minutes for questions unique to the pretest, the pretest will total approximately 38 hours cumulatively (100 respondents x 23 minutes each). Once the pretest is completed, the FTC plans to seek information from up to 3,600 respondents for approximately 20 minutes each. Thus, cumulatively, for all respondents, responding to the FTC's pretest and questionnaire will consume approximately 1,238 hours. The cost per respondent should be negligible. Participation will not require start up, capital, or labor expenditures by respondents.

III. Request for Comment

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by

section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) Whether the reporting requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 60 DAYS FROM FEDERAL REGISTER DATE OF PUBLICATION]. Write “Fuel Economy Consumer Study, Project No. P134202” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include

any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).³ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/fueleconomystudypra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that website.

If you file your comment on paper, write “Fuel Economy Consumer Study, Project No. P134202” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610, (Annex J), Washington, DC 20580, or deliver your comment to the following

³ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610, (Annex J), Washington, D.C. 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [60 DAYS FROM FEDERAL REGISTER DATE OF PUBLICATION]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,
Secretary.

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